

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

M.B.D. No.

K-SWISS INC., a Delaware Corporation

Plaintiff

v.

PAYLESS SHOESOURCE, INC.

Defendant


05 MBD 10203

CERTIFICATION PURSUANT TO LOCAL RULE 7.1 AND LOCAL RULE 37.1

Pursuant to Local Rules 7.1 and 37.1 of the United States District Court for the District of Massachusetts, Plaintiff's counsel hereby certifies that she has attempted in good faith to resolve or narrow the issue in the Plaintiff K-Swiss Inc.'s Expedited Motion to Compel Production Pursuant to Fed.R.Civ.P. 45(c)(2)(B), via telephone conference with counsel for Mercury International Trading Corporation ("Mercury"), on May 16, 2005. Prior to this conference, lead counsel for Plaintiff and his associate exchanged telephone calls, letters, and emails with counsel for Mercury, in an effort to resolve or narrow the issue raised in the Expedited Motion to Compel (see Exhibit B to Declaration of Neil D. Greenstein in Support of Plaintiff K-Swiss Inc.'s Expedited Motion to Compel Production Pursuant to Fed.R.Civ.P. 45(c)(2)(B)).

After these communications, the parties were unable to resolve the issue raised in Plaintiff's Expedited Motion to Compel Production Pursuant to Fed. R. Civ. P. 45(c)(2)(B).

Counsel for the Plaintiff further certifies that she attempted to confer regarding the Expedited Motion to Compel with counsel for Payless Shoesource, Inc. by leaving a detailed voice mail message regarding same on May 16, 2005.


Jackie Cowin (BBO# 655880)

251264/KSWISS/0001

CERTIFICATE OF SERVICE
I hereby certify that a true copy of the
above document was served upon the
attorney of record for each other party
by mail hand on and federal express
on 5/16/05 - JC